

Office for Historically Underutilized Businesses

Public Private Partnership Historically Underutilized Business Provisions

Any legislation passed for Public Private Partnerships (PPPs) with the State of North Carolina should include specific language pertaining to provisions for participation and utilization of Historically Underutilized Business (HUB) firms. The State of North Carolina has a 10% goal for utilization of HUB firms. All PPPs should at a minimum meet or exceed the State's HUB goals. Additionally, PPPs should establish and submit a HUB Plan in compliance with G.S. 143-128.2 and 143-128.4 to the directors of the State Construction Office and Office for Historically Underutilized Businesses. PPPs and their contracting entities should make a good faith effort to recruit and select minority businesses for participation in contracts pursuant to G.S. 143-128.2 and 143-128.4.

Below are a few excerpts from the NC General Statutes which reference minority business participation and public sector contracting.

N.C.G.S. §143-128. Requirements for certain building contracts

(b) When the State, county, municipality, or other public body uses the separate-prime contract system, it shall accept bids for each subdivision of work for which specifications are required to be prepared under subsection (a) of this section and shall award the respective work specified separately to responsible and reliable persons, firms or corporations regularly engaged in their respective lines of work. When the estimated cost of work to be performed in any single subdivision or branch for which separate bids are required by this subsection is less than twenty-five thousand dollars (\$25,000), the same may be included in the contract for one of the other subdivisions or branches of the work, irrespective of total project cost. *The contracts shall be awarded to the lowest responsible, responsive bidders, taking into consideration quality, performance, the time specified in the bids for performance of the contract, and compliance with G.S. 143-128.2.*

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N.C.G.S. § 143-128.1. Construction management at risk contracts.

The public entity shall require the construction manager at risk to submit its plan for compliance with G.S. 143-128.2 for approval by the public entity prior to soliciting bids for the project's first-tier subcontractors. A construction manager at risk and first-tier subcontractors shall make a good faith effort to recruit and select minority businesses for participation in contracts pursuant to G.S. 143-128.2. The construction manager at risk shall act as the fiduciary of the public entity in handling and opening bids. The construction manager at risk shall award the contract to the lowest responsible, responsive bidder, taking into consideration quality, performance, the time specified in the bids for performance of the contract, the cost of construction oversight, time for completion, compliance with G.S. 143-128.2, and other factors deemed appropriate by the public entity and advertised as part of the bid solicitation.

N.C.G.S. § 143-128.2. Minority business participation goals.

(a) The State shall have a verifiable ten percent (10%) goal for participation by minority businesses in the total value of work for each State building project, including building projects done by a private entity on a facility to be leased or purchased by the State. A local government unit or other public or private entity that receives State appropriations for a building project or other State grant funds for a building project, including a building project done by a private entity on a facility to be leased or purchased by the local government unit, where the project cost is one hundred thousand dollars (\$100,000) or more, shall have a verifiable ten percent (10%) goal for participation by minority businesses in the total value of the work; provided, however, a local government unit may apply a different verifiable goal that was adopted prior to December 1, 2001, if the local government unit had and continues to have a sufficiently strong basis in evidence to justify the use of that goal. On State building projects and building projects subject to the State goal requirement, the Secretary shall identify the appropriate percentage goal, based on adequate data, for each category of minority business as defined in G.S. 143-128.2(g)(1) based on the specific contract type.

For more information, please contact the Department of Administration 919-807-2340.